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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

DANIEL JOSEPH HERNANDEZ, JR.,

Defendant and Appellant.

E072568

(Super.Ct.No. RIF76260)

OPINION

APPEAL from the Superior Court of Riverside County. John D. Molloy, Judge.
Affirmed.

Richard Jay Moller, under appointment by the Court of Appeal, for Defendant and Appellant.

No appearance for Plaintiff and Respondent.

Defendant filed a request pursuant to Penal Code section 1170.18 to reclassify his felony conviction for vehicle theft (Count 1; Veh. Code, § 10851, subd. (a)) to a

misdemeanor, which the court denied. After defendant filed a notice of appeal, this court appointed counsel to represent defendant.

Counsel has filed a brief under the authority of *People v. Wende* (1979) 25 Cal.3d 436 and *Anders v. California* (1967) 386 U.S. 738, setting forth a statement of the case and identifying two potentially arguable issues: whether defendant was eligible for reclassification of his offense to a misdemeanor despite his failure to offer any evidence that the truck he stole was worth \$950 or less and whether defendant received effective assistance of counsel. We affirm.

I. PROCEDURAL BACKGROUND

On August 28, 1997, defendant and appellant, Daniel Joseph Hernandez, Jr., pleaded guilty to felony vehicle theft (Count 1; Veh. Code, § 10851, subd. (a)) and felony evading a police officer (Count 3; Veh. Code, § 2800.2). The court suspended a two-year aggregate term of imprisonment and placed defendant on 36 months of felony probation.

On October 5, 2018, defendant filed a request pursuant to Penal Code section 1170.18 to reclassify his conviction for felony vehicle theft (Count 1; Veh. Code, § 10851, subd. (a)) to a misdemeanor. The People opposed the requested relief maintaining defendant had failed to carry his burden of proof. The court appointed counsel for defendant and set the matter for a hearing noting that it needed the value of the vehicle defendant pleaded guilty to stealing. At the hearing on March 21, 2019, defendant's counsel requested the petition be granted. The court denied the petition without prejudice noting, "Defense has failed to meet their burden."

II. DISCUSSION

We offered defendant an opportunity to file a personal supplemental brief, which he has not done. Pursuant to the mandate of *People v. Kelly* (2006) 40 Cal.4th 106, we have independently reviewed the record for potential error and find no arguable issues.

III. DISPOSITION

The judgment is affirmed.

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McKINSTER
Acting P. J.

We concur:

CODRINGTON
J.

MENETREZ
J.